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IN THE

Supreme Court of the United States

No. 931

October Term, 1965

GEORGE KUKICH, ALEXANDER G. BRNILOVICH, STANLEY IVOSEVICH, RADE SUSNJAR, RADE MILKOVICH, JOVO ADAMOVICH, DELLA ZEES and DOROTHY CONWAY, individually and on behalf of all others similarly situated,

Appellants,

vs.

SERBIAN EASTERN ORTHODOX CHURCH OF PITTSBURGH, NICHOLAS R. STONE, WALTER R. RANICH, PETER M. NOZINICH, GEORGE ERDEL, LARRY TRBOVICH, JR., ROBERT R. STONE, JOHN VERLINICH, MILAN LUKETICH, SAM VIGNOVICH and GEORGE TRBOVICH,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF PENNSYLVANIA

APPELLANTS' REPLY BRIEF OPPOSING MOTION TO DISMISS OR AFFIRM

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Appellees have in their motion to dismiss so dogmatically asserted that the Federal questions upon which the appeal is based are being raised therein for the first time, that it is deemed necessary to reply in the interest of truth.

Mere reference to the printed Supplemental Record of Appellants at No. 94 March Term, 1965 page 1c shows

unquestionably that the Federal questions were actually presented fully on July 6, 1964, to the Common Pleas Court, and, upon appeal, to the Pennsylvania Supreme Court. The fact that these questions were ignored below as have been the Federal constitutional and judicial mandates, is the very basis of the appeal. The questions were put, but the answers withheld, leaving the overtone of Judge Van der Voort's decision of March 6, 1964, as the law of the case, (Printed Record, Penna. Supreme Court appeal No. 110 March Term, 1964, at p. 364a):

> "* * * the canonical regulations while sufficient to control the spiritual matters of a church congregation, cannot control the proceedings of the members which are made, done and confirmed in accordance with the civil law of the Commonwealth of Pennsylvania."

It appears that while "the law" in Pennsylvania will give lip service to the Federal principle of separation of church and state; mutely it refuses recognition thereof.

"*Non omne licitum honestum*":

If in truth a church hierarchy has autonomous power over its membership; and if such power is to be honored in our civil courts; then review and reversal of the Pennsylvania Supreme Court and Common Pleas Court are indeed called for.

Respectfully submitted,

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END